

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NIPPON SHINYAKU CO., LTD.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 21-1015 (JLH)
)	
SAREPTA THERAPEUTICS, INC.,)	
)	
Defendant.)	
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SAREPTA THERAPEUTICS, INC. and THE)	
UNIVERSITY OF WESTERN AUSTRALIA,)	
)	
Defendant/Counter-Plaintiffs,)	
)	
v.)	
)	
NIPPON SHINYAKU CO., LTD.)	
and NS PHARMA, INC.)	
)	
Plaintiff/Counter-Defendants.)	

**SAREPTA THERAPEUTICS, INC. AND THE UNIVERSITY OF
WESTERN AUSTRALIA’S MOTION (#1) TO EXCLUDE NS’S EXPERT
OPINIONS AND TESTIMONY APPLYING A NEW AND
IMPROPER CONSTRUCTION OF “MORPHOLINO”**

Pursuant to Federal Rule of Evidence 702, Sarepta Therapeutics, Inc. (“Sarepta”) and the University of Western Australia (“UWA”) respectfully move for the Court to exclude Drs. Michelle L. Hastings’ and Matthew J.A. Wood’s opinions and testimony that employ a new and incorrect claim construction. Specifically, Sarepta requests exclusion of:

- the opinions and testimony of Dr. Michelle L. Hastings relating to morpholino antisense oligonucleotides other than phosphorodiamidate morpholino oligomers, including Paragraphs 61-65, 80-81, 83, 104, 123-24, 126, 184, 188, 194-195, 200, 203, 206-207, and 214-217 of her Supplemental Expert Report and Paragraphs 13-

16, 18-21, 49, 79, 85, 91, 93, 111, 117, and 119 of her Supplemental Reply Expert Report, served July 3, 2024 and September 4, 2024, respectively;

- the opinions and testimony of Dr. Matthew J.A. Wood relating to morpholino antisense oligonucleotides other than phosphorodiamidate morpholino oligomers, including Paragraphs 27-28, 77, and 82-86 of his Supplemental Expert Report and Paragraphs 14, 60, 65, and 82 of his Supplemental Reply Expert Report, served July 3, 2024 and September 4, 2024, respectively.

The grounds for this Motion are set forth in the Opening Brief in support thereof, filed concurrently.

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October 2, 2024

RULE 7.1.1 CERTIFICATE

I hereby certify that the subject of the foregoing motion has been discussed with counsel for the plaintiff/counter-defendants and that we have not been able to reach agreement.

/s/ Megan E. Dellinger

Megan E. Dellinger (#5739)

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and NS PHARMA, INC.)	
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**[PROPOSED] ORDER GRANTING SAREPTA THERAPEUTICS, INC. AND
THE UNIVERSITY OF WESTERN AUSTRALIA’S MOTION (#1) TO
EXCLUDE NS’S EXPERT OPINIONS AND TESTIMONY APPLYING A
NEW AND IMPROPER CONSTRUCTION OF “MORPHOLINO”**

Having considered Sarepta Therapeutics, Inc. (“Sarepta”) and the University of Western Australia (“UWA’s”) motion to exclude Drs. Michelle L. Hastings’ and Matthew J.A. Wood’s opinions and testimony that employ a new and incorrect claim construction, and all related papers filed in connection therewith,

IT IS HEREBY ORDERED that Sarepta and UWA’s Motion is **GRANTED**: the opinions and testimony of Nippon Shinyaku Co., Ltd. and NS Pharma, Inc.’s experts are excluded as follows:

- the opinions and testimony of Dr. Michelle L. Hastings relating to morpholino antisense oligonucleotides other than phosphorodiamidate morpholino oligomers, including Paragraphs 61-65, 80-81, 83, 104, 123-24, 126, 184, 188, 194-195, 200, 203, 206-207, and 214-217 of her Supplemental Expert Report and Paragraphs 13-16, 18-21, 49, 79, 85, 91, 93, 111, 117, and 119 of her Supplemental Reply Expert Report, served July 3, 2024 and September 4, 2024, respectively;
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IT IS SO ORDERED, this ____ day of _____, 2024.

The Honorable Jennifer L. Hall
U.S. District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on October 2, 2024, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on October 2, 2024, upon the following in the manner indicated:

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